

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

REID JILEK,)	Case No. 08CV658-IEG (WMC)
)	
Plaintiff,)	CASE MANAGEMENT CONFERENCE
v.)	ORDER REGULATING DISCOVERY AND
)	OTHER PRETRIAL PROCEEDINGS
EPITOME PHARMACEUTICALS)	
LIMITED,)	(Fed. R. Civ. P. 16)
)	(Local Rule 16.1)
Defendants.)	(Fed. R. Civ. P. 26)
_____)	
)	

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a telephonic Case Management Conference was held on September 10, 2008 at 4:30 p.m. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing,

IT IS HEREBY ORDERED:

1. Initial disclosures pursuant Rule 26(a)(1)(A-D) shall occur before September 30, 2008.

2. A joint discovery plan shall be lodged with Magistrate Judge McCurine on or before September 30, 2008.

3. Each party shall serve on all opposing parties a list of experts, whom that party expects to call at trial, on or before

1 October 13, 2008. Each party may supplement its designation in
2 response to the other party's designation no later than October 27,
3 2008. Expert designations shall include the name, address, and
4 telephone number of each expert and a reasonable summary of the
5 testimony the expert is expected to provide. The list shall also
6 include the normal rates the expert charges for deposition and
7 trial testimony.

8 The parties must identify any person who may be used at trial
9 to present evidence pursuant to Rules 702, 703 or 705 of the
10 Federal Rules of Evidence. This requirement is not limited to
11 retained experts.

12 **Please be advised that failure to comply with this section or**
13 **any other discovery order of the Court may result in the sanctions**
14 **provided for in Fed. R. Civ. P. 37, including a prohibition on the**
15 **introduction of experts or other designated matters in evidence.**

16 4. All expert disclosures required by Fed. R. Civ. P.
17 26(a)(2) shall be served on all parties on or before November 24,
18 2008. Any contradictory or rebuttal information shall be disclosed
19 on or before December 22, 2008. In addition, Fed. R. Civ. P.
20 26(e)(1) imposes a duty on the parties to supplement the expert
21 disclosures made pursuant to Fed. R. Civ. P. 26(a)(2)(B) by the
22 time that pretrial disclosures are due under Fed. R. Civ. P.
23 26(a)(3) (discussed below).

24 The parties are advised to consult with Fed. R. Civ. P.
25 26(a)(2) regarding expert disclosures. Such disclosures shall
26 include an expert report, all supporting materials, a complete
27 statement of all opinions to be expressed and the basis and reasons
28 therefor, the data or other information considered by the expert in

1 forming the opinions, any exhibits to be used as a summary of or
2 support for the opinions, the qualifications of the witness
3 including a list of all publications authored by the witness within
4 the preceding ten years, the compensation to be paid for the study
5 and testimony, and a list of other cases in which the witness has
6 testified as an expert at trial or by deposition within the
7 preceding four years.

8 This disclosure requirement applies to all persons retained or
9 specially employed to provide expert testimony, or whose duties as
10 an employee of the party regularly involve the giving of expert
11 testimony.

12 **Please be advised that failure to comply with this section or**
13 **any other discovery order of the Court may result in the sanctions**
14 **provided for in Fed. R. Civ. P. 37, including a prohibition on the**
15 **introduction of experts or other designated matters in evidence.**

16 5. All discovery, including expert discovery, shall be
17 completed by all parties on or before **January 16, 2009**. "Completed"
18 means that interrogatories, requests for production, and other
19 discovery requests must be served at least thirty (30) days prior
20 to the established cutoff date so that responses thereto will be
21 due on or before the cutoff date. All subpoenas issued for
22 discovery must be returnable on or before the discovery cutoff
23 date. **All disputes concerning discovery shall be brought to the**
24 **attention of the Magistrate Judge no later than thirty (30) days**
25 **following the date upon which the event giving rise to the dispute**
26 **occurred. Counsel are required to meet and confer regarding all**
27 **discovery disputes pursuant to the requirements of Local Rules**
28 **16.5(k) and 26.1(a). All discovery motions and/or conferences must**

1 be calendared within thirty (30) days of a dispute arising, and in
2 the absence of extraordinary circumstances, no later than thirty
3 (30) days after the discovery cutoff.

4 6. All other pretrial motions must be filed on or before
5 January 26, 2009. Motions will not be heard or calendared unless
6 counsel for the moving party has obtained a motion hearing date
7 from the law clerk of the judge who will hear the motion. Be
8 further advised that the period of time between the date you
9 request a motion date and the hearing date may be up to three or
10 more months. Please plan accordingly. For example, you may need to
11 contact the judge's law clerk three or more months in advance of
12 the motion cutoff to calendar the motion. Failure to timely
13 request a motion date may result in the motion not being heard.
14 Motions will not be heard on the above date unless you have
15 obtained that date from the judge's law clerk.

16 Questions regarding this case should be directed to the
17 judge's law clerk. The Court draws the parties' attention to Local
18 Rule 7.1(e)(4) which requires that the parties allot additional
19 time for service of motion papers by mail. Papers not complying
20 with this rule shall not be accepted for filing.

21 Briefs or memoranda in support of or in opposition to any
22 pending motion shall not exceed twenty-five (25) pages in length
23 without leave of the judge who will hear the motion. No reply
24 memorandum shall exceed ten (10) pages without leave of the judge
25 who will hear the motion.

26 7. A Mandatory Settlement Conference shall be conducted on
27 November 6, 2008 at 2:00 p.m. in the chambers of Magistrate Judge
28 William McCurine. Counsel shall submit **confidential** settlement

1 statements **directly** to Magistrate Judge McCurine's chambers no
2 later than **October 31, 2008**. **Absent extraordinary circumstances,**
3 **requests for continuances will not be considered unless submitted**
4 **in writing no less than fourteen (14) days prior to the scheduled**
5 **conference.**

6 Each party's settlement statement shall set forth the party's
7 statement of the case, identify controlling legal issues, concisely
8 set out issues of liability and damages, and shall set forth the
9 party's settlement position, including the last offer or demand
10 made by that party, and a separate statement of the offer or demand
11 the party is prepared to make at the settlement conference. **The**
12 **settlement conference briefs shall not be filed with the Clerk of**
13 **the Court.**

14 All parties and claims adjusters for insured defendants and
15 representatives with full authority to enter into a binding
16 settlement, as well as the principal attorney(s) responsible for
17 the litigation, must be present and legally and factually prepared
18 to discuss and resolve the case at the Mandatory Settlement
19 Conference.

20 Full authority to settle means that the individual present at
21 the settlement conference has the unfettered discretion and
22 authority to: 1) fully explore settlement options and to agree at
23 that time to any settlement options; 2) agree at that time to any
24 settlement terms acceptable to the parties; 3) change the
25 settlement position of a party; and 4) negotiate monetary awards
26 without being restricted to a specific sum certain.

27 Where the suit involves the United States or one of its
28 agencies, only United States counsel with full settlement authority

1 need appear. As to all other parties, appearance by litigation
2 counsel only is not acceptable.

3 Outside retained corporate counsel shall not appear on behalf
4 of a corporation as the party who has the authority to negotiate
5 and enter into a settlement. **All conference discussions will be**
6 **informal, off the record, privileged, and confidential. Failure of**
7 **required parties and counsel to appear in person may be cause for**
8 **the imposition of sanctions.**

9 8. If Plaintiff is incarcerated in a penal institution or
10 other facility, the Plaintiff's presence is not required at
11 conferences before Judge McCurine, and the Plaintiff may appear by
12 telephone. In that case, defense counsel is to coordinate the
13 Plaintiff's appearance by telephone.

14 9. Counsel shall serve on each other and file their
15 Memoranda of Contentions of Fact and Law and take any other action
16 required by Local Rule 16.1(f)(2) on or before **March 16, 2009**. On
17 or before this date, the parties must also comply with the pretrial
18 disclosure requirements of Fed. R. Civ. P. 26(a)(3). The parties
19 should consult Fed. R. Civ. P. 26(a)(3) for the substance of the
20 required disclosures.

21 10. Counsel shall confer and take the action required by
22 Local Rule 16.1(f)(4) on or before **March 23, 2009**. At this
23 meeting, counsel shall discuss and attempt to enter into
24 stipulations and agreements resulting in simplification of the
25 triable issues. Counsel shall exchange copies and/or display all
26 exhibits other than those to be used for impeachment, lists of
27 witnesses and their addresses including experts who will be called
28 to testify, and written contentions of applicable facts and law.

1 The exhibits shall be prepared in accordance with Local Rule
2 16.1(f)(2)(c). Counsel shall cooperate in the preparation of the
3 proposed final pretrial conference order.

4 11. The proposed final pretrial conference order, including
5 written objections, if any, to any party's Fed. R. Civ. P. 26(a)(3)
6 pretrial disclosures, shall be prepared, served, and submitted to
7 the Clerk's Office on or before **March 30, 2009** and shall be in the
8 form prescribed in and in compliance with Local Rule 16.1(f)(6).
9 Any objections shall comply with the requirements of Fed. R. Civ.
10 P. 26(a)(3). **Please be advised that the failure to file written**
11 **objections to a party's pretrial disclosures may result in the**
12 **waiver of such objections, with the exception of those made**
13 **pursuant to Rules 402 (relevance) and 403 (prejudice, confusion or**
14 **waste of time) of the Federal Rules of Evidence.**


15 12. The final pretrial conference is scheduled on the
16 calendar of the **Honorable Irma E. Gonzalez** on **April 6, 2009** at
17 **10:30 a.m.** The trial date will be assigned by Judge Gonzalez at
18 the pretrial conference.

19 13. The dates and times set forth herein will not be modified
20 except for good cause shown.

21 14. Plaintiff's(s') counsel shall serve a copy of this order
22 on all parties that enter this case hereafter.

23 IT IS SO ORDERED.

24 DATED: September 11, 2008

25 
26 Hon. William McCurine, Jr.
27 U.S. Magistrate Judge
28 United States District Court